

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

DAVID NOEL SMITH and MAUREEN  
ANNE SMITH,

Plaintiffs,

v.

JACQUELYN AUFDERHEIDE, CHRIS  
ENDRESEN, JAN ANGEL, PATTY LENT,  
CHRIS GEARS, RANDY CASTEEL,  
JONATHAN BRAND, MALCOLM  
FLEMMING, PENNY STARKY, JOHN  
DOES 1-3, JANE DOES 1-3, AND  
KITSAP COUNTY,

Defendants.

No. 07-05125

ORDER ON DEFENDANTS'  
MOTIONS IN LIMINE

**NOTED FOR: October 10, 2008**

THIS MATTER having come before the Court on Defendant Kitsap County's  
Motions in Limine, and the Court having considered the arguments of the parties, rules as  
follows. Where the Court has granted a Motion in Limine, all counsel are required to  
inform witnesses they call of the existence of the order and its contents. For Motions in  
Limine which have been denied, in the absence of a specific request from the trial court to  
renew the objection, the moving party would be spared from further objection to that  
evidence when introduced at trial.

**MOTION IN LIMINE RE: County's Membership in Risk Pool.**

☒ [ X ] Granted

☐ [ ] Denied

☐ [ ] Reserved

1 **MOTION IN LIMINE RE: Settlement of the Sutherland and Shank**  
2 **Litigation.**

3 ☐ Granted ☒ Denied In Part ☐ Reserved

4 **Comments:**

5 Plaintiff can elicit testimony about the fact that the case did settle and that Kitsap  
6 County paid “some” money to Shank and to Sutherland. The amount of the settlement will  
7 not be mentioned, however.

8 **MOTION IN LIMINE RE: Racial Comments By Casteel and Others.**

9 ☐ Granted ☒ Denied In Part ☐ Reserved

10 **Comments:**

11 Plaintiff can testify to what he told his superiors about racial comments by Casteel  
12 and Brand. The testimony on the subject is limited to what he told his supervisors,  
13 however. If plaintiff did not speak to superiors about a subject it is not relevant.

14 **MOTION IN LIMINE RE: Claims Of “Nepotism.”**

15 ☒ Granted ☐ Denied ☐ Reserved

16 **MOTION IN LIMINE RE: Witnesses Who Want To Testify As “Victims.”**

17 ☐ Granted ☐ Denied ☐ Reserved

18 **Comments:**

19 Plaintiff can testify to what he told his supervisors about specific employees who  
20 were subjected to retaliation or discrimination. Whether these witnesses were or were not  
21 subjected to retaliation and/or discrimination is not an issue in this case. Witnesses can  
22 testify about their observations of retaliation against plaintiff, however.

23 **MOTION IN LIMINE RE: Witnesses Who Left Kitsap County Long Before**  
24 **Smith Was Fired.**

25 ☐ Granted ☐ Denied ☐ Reserved

1                    Comments:

2                    Plaintiff can testify to what he told his supervisors about specific employees who  
3 were subjected to retaliation or discrimination. Whether these witnesses were or were not  
4 subjected to retaliation and/or discrimination is not an issue in this case. Witnesses can  
5 testify about their observations of retaliation against plaintiff, however.

6                    **MOTION IN LIMINE RE: Plaintiff's Speculation About Job Opportunities**  
7 **Lost.**

8                    ☐ Granted                    ☐ Denied                    ☒ Reserved

9                    **MOTION IN LIMINE RE: Jon Brand "Threatened" Me.**

10                    ☐ Granted                    ☐ Denied                    ☒ Reserved

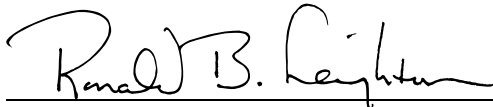
11                    Comments:

12                    The tape will be played and plaintiff can testify that he felt like he was being  
13 threatened.  
14

15                    **MOTION IN LIMINE RE: Plaintiff's Belief That The Tape Recordings Were**  
16 **Legal.**

17                    ☒ Granted                    ☐ Denied                    ☐ Reserved

18                    DONE IN OPEN COURT this 14<sup>th</sup> day of October, 2008.

19  
20                    

21                    RONALD B. LEIGHTON  
22                    UNITED STATES DISTRICT JUDGE  
23  
24  
25  
26  
27

1 Presented by

2 KEATING, BUCKLIN & McCORMACK, INC., P.S.

3  
4 /s Andrew G. Cooley

5 Andrew G. Cooley, WSBA #15189

6 Jayne L. Freeman, WSBA #24318

*Attorney for Defendants*